

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 10, 13 and 15-17) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention, as now most broadly claimed, provides a truck or trailer isolator assembly apparatus in which the air brakes of the truck or trailer remain “on” in a locked position when the truck or trailer is in a detached state until authorized personnel are able to unlock the braking system and move the trailer. As is well known in the prior art, when a trailer is disconnected, its air brakes are normally in an actuated mode. When the trailer is re-connected to a tractor or truck, compressed air is able to pass through a supply line for permitting disengagement of the air braking system. While the air brakes are necessarily in a locked state when the trailer is detached, thereby permitting a significant safety advantage, the ability of the air brakes to be controlled by mere connection to a tractor’s braking system renders security of the trailer, at best, problematic.

Applicant’s invention, as now most broadly claimed, avoids the drawbacks known to the prior art by providing a trailer isolator assembly, which includes only a single valve which is connected into a trailer compressed air supply line, so that in a “closed” state the valve permits compressed air to pass through the air supply line to the braking system and, while in an “open” state, the valve causes air in the supply line to be exhausted from the valve through exhaust means. The present invention, as now claimed, further includes

a housing for the single valve with the housing being connected to a trailer braking system and accessible via a lockable door.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient trailer and truck isolator assembly, which includes only a single valve for maintaining the air brakes of a trailer in a locked condition when the trailer is in a detached state until unlocked by authorized personnel, notwithstanding any unauthorized attempt to disengage the brakes by the provision of compressed air, either disclosed or suggested.

By the present amendments, Applicant has amended independent Claim 10, and all remaining claims via dependency, to specify that the trailer isolator assembly of the present invention comprises only a single valve in combination with a housing for the single valve with the housing being connected to a trailer braking system and accessible via a lockable door. As discussed in Applicant's *Amendment*, filed July 30, 2008, by virtue of the use of the transitional term "comprising," it is Applicant's intent to limit, or "close," the presently claimed invention to only a "single" valve, but to leave the claim "open" to additional, unspecified elements, such that any "additional elements" not be one or more further valves of the type already specified in the claims. See, *Mannessman Demag Corp. v. Engineered Metal Products Co., Inc.*, 793 F.2d 1279, 230 USPQ 45, 46 (Fed. Cir. 1986) ("The court correctly observed that the phrase 'consisting of' appears in clause (a), not the preamble of the claim, and thus limits only the element set forth in clause (a). The court correctly declined to read this usage of 'consisting of' as excluding

all other elements from the claim as a whole.”); *Berenter v. Quigg*, 737 F.Supp. 5, 14 USPQ2d 1175-1176 (D.D.C. 1988).

The subject matter reciting the “housing” now included in independent Claim 10 was previously recited in dependent Claim 14, which has now been canceled.

As part of the “final” Office Action, issued November 16, 2010, the Examiner has rejected Claims 10, 11, 12, 18 and 19 as not properly reciting “means-plus-function” language, as otherwise permitted by 35 U.S.C. §112, sixth paragraph. Applicant has studied the Examiner’s objection to the prior recitation of “means for” claim language and agrees with the Examiner, and has therefore deleted such language from Claim 10, and has cancelled dependent Claims 11, 12, 18 and 19.

In view of the deletion of the “means-plus-function” language from Applicant’s claims, it is respectfully contended that the Examiner’s rejection of the subject matter of Claims 10, 11, 12, 18 and 19, as previously recited, has been overcome, or otherwise been rendered moot, by the instant claim amendments and, as such, the rejection grounded upon 35 U.S.C. §112, sixth paragraph, should be withdrawn.

In the latest Office Action, the Examiner has further rejected Applicant’s claims as being indefinite, pursuant to 35 U.S.C. §112, second paragraph, on the ground that the amendment entered for independent Claim 10 on July 30, 2009, which used “comprising” claim language as the transitional clause in Claim 10, but which otherwise “closed” the only positively recited claim element presented in the body of the claim, rendered Appli-

cant's claims indefinite. Due to the indefinite nature of Applicant's prior amendment of independent Claim 10, the Examiner had "given no patentable weight" to the limitation of only a "single" valve, as otherwise recited in Claim 10.

In reply to the Examiner's 35 U.S.C. §112, second paragraph, indefiniteness rejection, Applicant has amended independent Claim 10 to incorporate the "housing" previously recited in dependent Claim 14, thereby positively reciting an additional structural claim element to be included in combination with the "single valve" recited in Applicant's claims.

In light of the incorporation of the "housing" of prior dependent Claim 14 into independent Claim 10, it is respectfully contended that the Examiner's 35 U.S.C. §112, second paragraph, rejection should now be withdrawn and that Applicant's amendment, which seeks to restrict the claimed invention to "only" a "single" valve, be given patentable weight and fully considered on its merits.

Accompanying the present *Amendment in Response to the Final Office Action*, Applicant is filing a *Request for Continued Examination* and formal *Petition for a Three-Month Extension of Time* for response, and remitting all required fees. Accordingly, the "finality" of the last Office Action should be withdrawn and the foregoing amendments presented herein entered, and considered on their merits, as a matter of right.

Turning now, in detail, to an analysis of the Examiner's prior art rejections, in the latest Office Action the Examiner has initially rejected the subject matter of Claims 10-13

and 18 as being anticipated, pursuant to 35 U.S.C. §102(b), by Parr *et al.*, U.S. Patent No. 5,747,886. It is the Examiner's contention that Parr *et al.* discloses a valve (9b, 21, 22) connected to a trailer compressed air supply line (FIG. 3) with the valve including the features recited in the enumerated claims rejected as being anticipated by the applied reference.

With respect to the subject matter of prior dependent Claim 14, which recites the "housing" now incorporated into independent Claim 10 (and all remaining claims via dependency), Parr *et al.* was applied as the primary reference in an obviousness rejection against Claim 14, issued pursuant to 35 U.S.C. §103(a), with Kee *et al.*, U.S. Patent No. 6,367,888, being secondarily-applied by the Examiner for its contended teaching of "a housing (25) connected to a brake system via a lockable door," with citation to Col. 2, lines 32-35 of Kee *et al.* Because Claim 14 was not rejected as being anticipated by Parr *et al.*, the anticipation rejection, as presented, is literally moot with the §103(a) obviousness rejection now being the pertinent rejection.

In reply to the Examiner's obviousness rejection applying Parr *et al.* as the primary citation, it is respectfully submitted that the apparatus taught and suggested by the Parr *et al.* necessarily has "at least two controllable valves," as explained in Parr *et al.* at Col. 3, lines 32 – 42. By contrast with Parr *et al.*, Applicant's presently claimed invention, as now most broadly recited in independent Claim 10, and for which Applicant's current amendment is submitted to be entitled to patentable weight, is restricted to only a single valve and could no longer be fairly viewed as "reading on," and therefore

anticipated by, Parr *et al.*, which requires “at least two” valves. Applicant respectfully contends that the elimination of an element from that which is taught by the prior art – at least a second valve as Parr *et al.* teaches – without loss of function is recognized as evidence of nonobviousness. See, *In re Application of Wickersham*, 24 USPQ 368, 370-371 (C.C.P.A. 1935) (eliminating a part of an apparatus without eliminating its function is evidence of “invention” or nonobviousness).

Kee *et al.* has been secondarily-applied by the Examiner for its contended teaching of a housing connected to a brake system via a lockable door. It is unclear from the portion of Kee *et al.* relied upon by the Examiner whether the Kee *et al.* is literally teaching a “housing” or simply key-operated switches or numeric keypads as security locking means, let alone a housing for containing a valve, as Applicant claims.

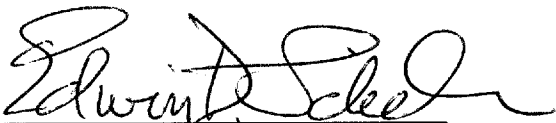
Nevertheless, even if Kee *et al.* is understood in the manner that has been suggested by the Examiner in his obviousness rejection, combining Parr *et al.* with Kee *et al.* would still fail to yield a “trailer isolator assembly” having only a “single” valve that is connected to a trailer compressed air supply line and having the capabilities recited in Applicant’s claims for yielding the attendant security benefits of the present invention.

Accordingly, it is respectfully contended that the present invention, as now most broadly recited in independent Claim 10, is neither anticipated by, nor obvious over, Parr *et al.*, whether Parr *et al.* is considered alone or taken in view of Kee *et al.*, as explained above, and consequently withdrawal of the Examiner’s 35 U.S.C. §102(b) anticipation and 35 U.S.C. §103(a) rejections of the final Office Action is respectfully requested.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (*i.e.*, Claims 10, 13 and 15-17) recite a novel and efficient trailer and truck isolator assembly, which includes only a single valve for maintaining the air brakes of a trailer in a locked condition when the trailer is in a detached state until unlocked by authorized personnel, notwithstanding any unauthorized attempt to disengage the brakes by the provision of compressed air, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejections and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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- Enc.: 1. Petition for Three-Month Extension of Time for Response;
2. *Request for Continued Examination*, pursuant to 37 C.F.R. §1.114; and,
3. EFT for \$980.00 (*Request for Continued Examination* + Three-Month Extension Fee).

The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.